

Docket No. NR-14

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:: James Robert Deerman, *et al.*

Serial No.: 10/652,265

Filed: August 29, 2003

For: REDUNDANCY SCHEME FOR NETWORK PROCESSING SYSTEMS

Group No.: Unknown

Examiner: Unknown

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

I hereby certify that this correspondence is being deposited with the United States Postal Service as Express Mail No. EU014707828US addressed to: Commissioner for Patents, Alexandria, VA 22313, on February 18, 2004

Carrie Wrich, Legal Secretary

Printed or Typed Name of person signing the certificate

Carrie Wrich
(Signature of the person signing the certificate)

DECLARATION OF FACTS IN SUPPORT OF FILING
ON BEHALF OF OMITTED INVENTOR (37 CFR 1.47(a))

This declaration is made as to the exact facts that are relied upon to establish the diligent effort made to secure the execution of the declaration by the omitted inventor for the above-identified patent application before deposit thereof in the Patent and Trademark Office.

This declaration is being made by the available persons having first-hand knowledge of the facts recited herein, specifically Carrie Wrich and Craig Cox.

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**ADDED PAGE TO COMBINED DECLARATION
AND POWER OF ATTORNEY FOR SIGNATURE BY JOINT INVENTOR(S)
ON BEHALF OF OMITTED INVENTOR(S) WHO REFUSE(S)
TO SIGN OR CANNOT BE REACHED (37 CFR 1.47a)**

I. I am an above named joint inventor and have signed this declaration on my own behalf and also sign this declaration under 37 CFR 1.47(a) on behalf of the omitted joint inventor, particulars for whom are:

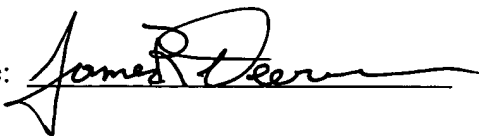
Ramanamurthy Dantu, a citizen of Canada whose last known address is 3103 Kingsbury Drive, Richardson, Texas 75082, is the omitted inventor who refuses to sign.

II. Accompanying this declaration is:

- (1) A Declaration of Facts in Support of Filing on Behalf of Omitted Inventor; and
- (2) The petition fee of \$ 130.00.

Full name of joint inventor: James R. Deerman

Inventor's signature:

A handwritten signature in black ink, appearing to read "James R. Deerman", written over a horizontal line.

Date:

2-17-04

**IDENTIFICATION OF PERSONS MAKING THIS
DECLARATION OF FACTS**

Name of Declarant No. 1: Carrie Wrich

Address of Declarant No. 1: 2229 Stafford Lane
Mesquite, Texas 75150

Name of Declarant No. 2: Craig Cox

Address of Declarant No. 2: 2507 Auburn
Dallas, Texas 75214

**EFFORTS DURING YEAR TO PREPARE APPLICATION
AND OBTAIN INVENTOR'S SIGNATURE**

See Declaration of Carrie Wrich and associated Exhibits.

DETAILS OF EFFORTS TO REACH OMITTED INVENTOR

See Declaration of Carrie Wrich and associated Exhibits.

**DETAILS OF REFUSAL OF OMITTED INVENTOR
TO SIGN APPLICATION PAPERS**

See Declaration of Craig Cox.

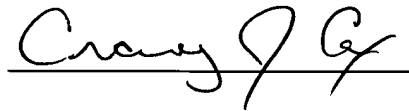
LAST KNOWN ADDRESS OF THE OMITTED INVENTOR

Full Name of Omitted Inventor: Ramanamurthy Dantu

Last known home address of omitted Inventor: 3103 Kingsbury Drive
Richardson, Texas 75082

Last known business address of omitted Inventor: Unknown

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued therefrom.

A handwritten signature in black ink, appearing to read "Cray J. G.", written over a horizontal line.

Attorney for Applicant

Date: 2/17/04

Netrake
3000 Technology Drive
Suite 100
Plano, Texas 75074
(214) 291-1000



DECLARATION

The undersigned, Carrie Wrich, a United States citizen residing at 2229 Stafford Lane, Mesquite, Texas 75150, is an employee of Netrake Corporation having a business address of 3000 Technology Drive, Suite 100, Plano, Texas 75074:

On or about January 7, 2004, I called the nonsigning inventor Ramanamurthy Dantu (hereinafter "Ram") and notified him that his signature was needed on formal paperwork, the Assignment and the Declaration and Power of Attorney for United States Patent Application Serial No. 10/652,265 (hereinafter, "Application"). I asked if he could come to Netrake and sign the Assignment and Declaration for the Application. He said he currently was not traveling but would prefer if I could send it to his house. I mentioned to him that the papers needed a Notary Public signature and that I am a Notary Public and would he come to Netrake and I could notarize the document. He said he would get his secretary to notarize the paperwork.

On or about January 8, 2004, I sent Ram a copy of the Application as recently filed in the United States Patent and Trademark Office, with an Assignment, Declaration and Power of Attorney to be signed. I enclosed a completed FedEx return envelope to facilitate Ram returning the signed documents. (See Exhibit A)

On or about January 12, 2004, I called Ram to find out if he had had a chance to return the signed Assignment, Declaration and Power of Attorney back to me using the FedEx envelope I had provided for him. He said he received the signature pages and the patent application, but to please send the drawings as that would help him review the patent application.

On or about January 13, 2004, I sent the drawings via courier to Ram's house.

On or about January 15, 2004, I called Ram to find out if he had a chance to review the drawings and to please send all the papers back to me, as I needed to send it, in turn, to the United States Patent and Trademark Office very quickly. Ram indicated that he needed to speak with Robert Mayer (Chief Technology Officer of Netrake) about the patent application.

On or about January 15-16, 2004, Ram sent Robert Mayer an email requesting a lunch meeting together to discuss the Application. Robert responded via email that he was preparing for a trip out of the country next week and would prefer to talk over the phone or correspond via email. Ram responded to Robert via email that he had previously signed an agreement about intellectual property related to the Application with Netrake, and that he had developed it prior to joining Netrake.

On or about January 21, 2004, Craig Cox, who is the ex in-house counsel for Netrake, spoke with Ram, wherein Ram claimed that the application reads on some of the work he did before he came to Netrake. In that conversation Ram refused to sign the application

and assignment because of his belief that it covers his prior work and because he doesn't think that the work he did on the Application while at Netrake belongs to Netrake.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed this 17th day of February 2004, at Plano, Texas.



Carrie Wrich

Wrich Declaration

EXHIBIT A



NETRAKE

3000 Technology Drive
Suite 100
Piano, TX 75074
214.291.1000 phone
214.291.1010 fax
netrake.com

Ram Dantu
3103 Kingsbury Drive
Richardson, TX 75082

Re: U.S. Patent Application
Our File Name: NR-14; File Name: Redundancy Scheme for Network
Processing Systems

Ram,

Please execute the attached Assignment and Declaration and Power of Attorney, where indicated. The Assignment assigns the entire interest in this invention to Netrake Corporation. **Please note that the Assignment must be notarized.**

Upon execution, kindly return these executed documents to me. Enclosed for your convenience is a completed Federal Express envelope.

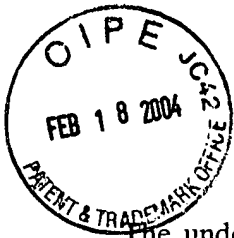
Also, per your request, enclosed you will find a copy of the patent application that was recently filed with the United States Patent & Trademark Office.

If you have any questions or comments, please do not hesitate to call. Thank you once again for your continued cooperation.

Very truly yours,

Carrie Wrich
Executive Assistant

CAW: caw
Enclosures



DECLARATION

The undersigned, Craig Cox, a United States citizen residing at 2507 Auburn, Dallas, Texas 75214, is a Patent Attorney, Registration Number is 39,643, and ex employee of Netrake Corporation having a business address of 3000 Technology Drive, Suite 100, Plano, Texas 75074:

On or about January 16, 2004, I (as well as Carrie Kirby) received an email from Robert Mayer (Chief Technology Officer of Netrake) asking if I knew anything about an agreement that the nonsigning inventor Ramanamurthy Dantu (hereinafter "Ram") had with regard to the technology covered under United States Patent Application Serial No. 10/652,265 (hereinafter, "Application").

On or about January 16, 2004, Carrie Kirby replied via email to Robert Mayer's email earlier that day, stating that she had a Netrake employment agreement from Ram that has an Appendix for Intellectual Property that he was working on previous to joining Netrake that is excluded from Netrake's "ownership rights". While I negotiated this Appendix with Ram upon the beginning of his employment, Carrie faxed me a copy of it to refresh my recollection.

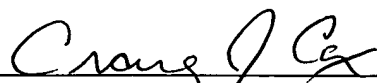
Between about January 19-21, 2004, Ram and I repeatedly traded phone messages.

On about January 21, 2004, I spoke with Ram by phone. In that phone conversation Ram claimed that the application reads on some of the work he did before he came to Netrake. In that conversation Ram refused to sign the application and assignment because of his belief that it covers his prior work and because he doesn't think that the work he did on the Application while at Netrake belongs to Netrake.

I am of the opinion that the technology covered by the Application is outside of the scope of the Intellectual Property excluded from Netrake's "ownership rights" by the aforementioned Appendix.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Executed this 17 day of February 2004, at Rockwall, Texas.


Craig Cox (Reg. No. 39,643)